

ORDINANCE NO. 1997

AN URGENCY ORDINANCE OF THE CITY OF CHULA VISTA AMENDING TITLE 9 OF THE CHULA VISTA MUNICIPAL CODE BY ADDING THERETO A NEW CHAPTER 9.50 ENTITLED "MOBILEHOME PARK SPACE RENT MEDIATION" TO CREATE A MECHANISM FOR MEDIATING MOBILEHOME PARK SPACE RENTS

WHEREAS, the City Council has maintained an urgency moratorium on rental increases in mobilehome parks in the City of Chula Vista since February 11, 1982 based upon the finding that such moratorium was necessary for the preservation of the public peace, health and safety, and

WHEREAS, the City Council has now completed studies and public hearings relative to the establishment of regulations of such rental increases for the reasons stated herein below, and

WHEREAS, the moratorium expires on August 17, 1982 and it is now necessary that the City Council adopt such regulations as an urgency ordinance to become effective forthwith.

The City Council of the City of Chula Vista does ordain as follows:

SECTION I: That Title 9 of the Chula Vista Municipal Code be, and the same is hereby amended by adding thereto a new Chapter 9.50 to read as follows:

CHAPTER 9.50 MOBILEHOME PARK SPACE RENT MEDIATION

Sec. 9.50.010 Purpose and Intent.

There is presently within the City of Chula Vista and the surrounding area a shortage of spaces for the location of mobilehomes. Because of the shortage there is a low vacancy rate, and the rates have been for several years and are presently in some parks rising rapidly and causing concern among a substantial number of Chula Vista residents. Because of the high cost of moving mobilehomes, the potential for damage resulting therefrom, the requirements relating to the installation of mobilehomes, including permits, landscaping, and site preparation, the lack of alternative

home sites for mobilehome park residents, and the substantial investment of mobilehome owners in such homes, the City Council finds and declares it necessary to establish a means which can provide protection to the owners and occupiers of mobilehomes from unreasonable rent increases while at the same time recognizing the need of mobilehome park owners to receive a reasonable return on their property and rent increases sufficient to cover the increased cost of repairs, maintenance, insurance, upkeep and additional amenities.

The procedures contained herein are intended to provide a mechanism for the resolution of disputed increases in rents by making it advantageous for mobilehome owners and mobilehome park owners to establish a better understanding for each other's positions through a negotiation process which will result in agreement on the amount of rent to be charged.

The City Council does not intend to establish a rent control process or to regulate or make decisions affecting the well recognized rights of either the mobilehome park owners or mobilehome owners who both have well recognized and substantial property rights that are impacted by the conditions which the Council finds to exist as set forth hereinabove. The Council intends to provide an administrative vehicle whereby all parties in a mobilehome park rental dispute may resolve their differences in an equitable manner. The Council believes that the conflicts created by exorbitant rent increases, or rent increases which are assumed to be exorbitant, jeopardize the public health, safety or welfare and can be avoided if mobilehome owners and mobilehome park owners recognize one another's legal rights as property owners and further accept the proposition that under law neither party has the right to engage in acts or practices which so jeopardizes the public health, safety or welfare.

Therefore, it is declared to be the policy of the City of Chula Vista to encourage the practice of productive negotiation and mediation between mobilehome owners and mobilehome park owners by the establishment of procedures to insure a full freedom of association through self-governing committees and the designation of representatives for the purpose of negotiating the terms and conditions of rent and rent increases in mobilehome parks.

Sec. 9.50.020 Created.

Each mobilehome park in the City is authorized to create its own mobilehome commission.

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Sec. 9.50.030 Definitions.

Words used in this Chapter shall have the meaning described to them in this section:

- (1) "Commission" means any mobilehome commission created within a mobilehome park in the City.
- (2) "Commissioners" means commissioners of the mobilehome commission created within a mobilehome park in the City.
- (3) "Space rent" means the consideration, including any bonus, benefits, or gratuity demanded or received in connection with the use and occupancy of the mobilehome space in a mobilehome park, or for the transfer of the lease for parkspace, services, and amenities, subletting and security deposits, but exclusive of any amounts paid for the use of the mobilehome dwelling.
- (4) "Mobilehome park owner" or "Owner" means the owner, lessor, operator, manager of a mobilehome park within the purview of this ordinance.
- (5) "Mobilehome resident" or "Resident" means any person entitled to occupy a mobilehome dwelling unit by virtue of ownership thereof.
- (6) "Dispute" or "controversy" means a disagreement or difference between more than 50 percent of the residents of a park and the owner regarding a proposed space rent increase.
- (7) "Consumer Price Index" shall mean the residential rent component of the San Diego Metropolitan Area U (broader base) consumer price index.

Sec. 9.50.040 Negotiation Commission - Membership.

The mobilehome negotiation commission in each mobilehome park shall consist of five (5) members. The commission shall be formed within a mobilehome park in the City within thirty (30) days of the date the owner receives a written petition of more than fifty percent (50%) of the mobilehome spaces within the owner's mobilehome park requesting that the commission be formed.

- (1) Two members shall be residents of the mobilehome park within which the commission is being formed and they shall be elected by a majority vote of the other owner/occupant residents of the mobilehome park.

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- (2) Two members shall be designated by the owner of the mobilehome park.
- (3) The fifth member shall be appointed by the unanimous vote of the other four members. It is preferable that the fifth member have some financial or accounting background. A chairman shall be selected by the majority vote of the members of the commission.
- (4) Alternates shall be appointed in each classification for items 1, 2, and 3 to serve when needed and shall be required to attend all meetings of the commission to be fully informed of the activities thereof, but shall be non-voting observers.
- (5) Commissioners shall serve at the pleasure of the parties who elected or appointed them.
- (6) Three (3) members shall constitute a quorum provided that one resident member and one owner member are present. Three (3) affirmative votes are required for a ruling or a decision.

Sec. 9.50.050 Functions of the Negotiation Commission.

- (1) To provide a representative forum for the purpose of facilitating and carrying out impartial and objective negotiations between the mobilehome park owner and the residents of a particular mobilehome park within which the commission has been formed. It is the objective of this ordinance to create such a forum within each mobilehome park in the City whereby the persons who are actually concerned and who are knowledgeable of the actual facts relating to their particular mobilehome park can resolve their differences and concerns regarding space rent increases without the interference of government or other persons who are not residents or owners of the particular mobilehome park. By creating this forum, and the mediation procedures provided for by this ordinance, the policies and objectives of the Mobilehome Residency Law of the State of California, specifically those of Section 798.15(g), which require the owner to meet and consult with residents regarding matters of concerns to residents, will be best served and implemented.
- (2) To make or conduct such independent hearings or investigations as may be appropriate to obtain such information as is necessary to carry out their duties. Said hearings shall be taped and the tapes of said hearings delivered to the City Clerk of the City of Chula Vista who shall maintain the tapes until any particular disputed rental increase matter has been concluded.

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- (3) To provide written minutes to the City Council concerning their activities, actions, results of hearings, and all other matters pertinent to this ordinance which may be of interest to the Council.
- (4) To maintain and keep at City Hall hearing files and dockets listing the time, date, and place of hearings, the parties involved, the addresses involved, and the final disposition of the matter.

Sec. 9.50.060 Powers of the Negotiation Commission.

- (1) To mediate all disputes regarding rental rate adjustments and make its recommendation to the resident and owner after hearing and preparation of files. The commission's decision shall be advisory only.
- (2) Advisory capacity to the City Council: The commission shall hold such hearings, receive evidence both oral and documentary, as it deems appropriate, and advise the City Council on all matters relating to the rent space situation in its particular mobilehome park that may be referred to it by the City Council from time to time.

Sec. 9.50.070 Initiation of Commission Review and Hearing Process.

In any situation where the rent increases in a calendar year exceed cumulatively the increase of the Consumer Price Index as defined herein for the year preceeding the rent increase, the following procedures shall apply:

- (1) Upon the written petition of more than fifty percent (50%) of the spaces in the mobilehome park who will be or have been within a sixty (60) day period, subject to a rental or service charge increase, the commission shall hold a hearing no sooner than ten (10) days and no later than thirty (30) days at a place and time to be set by the commission, to determine whether or not the rental or service charge increase is warranted. A reasonable continuance may be granted if stipulated to by both parties or at the commission's discretion.
- (2) All hearings of the commission shall be open to the other residents of the particular mobilehome park and to other residents of the City, provided, however, that the commission shall have the power to approve and control the attendance of persons who do not live in their particular mobilehome park in order to ensure that residents of the particular mobilehome park can attend the hearing. Persons

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who do not live in the particular mobilehome park shall not be permitted to speak or participate in the hearings unless they are being called as witnesses or they are assisting one of the parties to the hearing as provided for in paragraph (5) below.

- (3) All parties to a hearing may have assistance in presenting evidence or in setting forth by argument their position, from such persons as may be designated by said parties.

Sec. 9.50.080 Mediation of Commission's Decision.

- (1) In the event that an owner, or more than 50 percent of a park's residents, are dissatisfied with a decision of the Commission, either party may elect to have the issue submitted to mediation for the purpose of attempting to reach agreement on the issue in contention.
- (2) The mediation process may be commenced by the party who has elected to mediate the dispute by giving the other party written notice of this election, within ten (10) days of the date of the Commission's decision.
- (3) A total of three (3) mediators shall be appointed for purposes of conducting the mediation, one mediator to be appointed by the residents and one mediator to be appointed by the owner. The two mediators shall appoint the third mediator.
- (4) In order to achieve objectivity and the maximum benefit from the mediation process, the mediators shall be selected from a list supplied by the City Council of qualified citizens with backgrounds in accounting, business ownership, and/or economics. None of the three mediators shall be persons who, either in the past or presently, have been or are directly associated with the mobilehome park industry.
- (5) The mediators shall determine and unanimously agree upon the procedures which are to be followed in conducting the mediation.
- (6) Each party shall submit such evidence as they feel is necessary to support their respective positions in the disputed rent increase. A majority of the mediators may, however, make the determination to include or exclude any testimony or other evidence which is not germane and material to the dispute.

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- (7) The three mediators shall, individually or jointly, as they decide, meet separately with the parties for the purpose of finding a basis for mutual agreement upon the rent increase which is in dispute. The mediators recommendation shall be advisory only. The mediators shall, however, be empowered to make recommendations and take all other action which is reasonably necessary and prudent to achieve the mutual agreement of the parties as to a fair and equitable resolution of the disputed rent increase.
- (8) With respect to any dispute upon which the parties have reached agreement, they shall, upon the request of either of them, enter into a written contract which embodies the terms of the agreement.
- (9) The cost of mediation will be shared equally by both parties. Commissioners shall be compensated in accordance with the schedule of payment for state mediation procedures or as may be agreed upon by the parties and the mediators themselves.
- (10) The commission hearings and mediation process are not intended to supersede or contradict the laws of the State of California or the United States generally, or as as they pertain specifically to mobilehome parks, mobilehome park rents, and otherwise, as they are now enacted or may be enacted in the future. In the event the issue in dispute is not resolved to either party's satisfaction by either the commission hearings or the mediation process described above, then each party shall retain all legal rights which they would otherwise have had if this ordinance had not been enacted. Specifically, neither the owner nor residents shall give up any rights which they may have under any law which is now enacted or may be enacted in the future to pursue any legal, equitable, or other remedy which they may have as to one another or any other party or person. The foregoing includes, without limitation, the right of residents to pursue any right or remedy which they may have under the Mobilehome Residency Law of the State of California.
- (11) The mediators shall render comprehensive written minutes to the City Council concerning their activities, actions, results of the mediation efforts, and all other matters pertinent to this ordinance which may be of interest to the Council.
- (12) Written minutes submitted to the City Council by the mediator shall be maintained at City Hall.

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Sec. 9.50.090 Deferral of Rent Increases.

In any case where a proposed rent increase exceeding the CPI, as provided herein, is subject to dispute, said increase shall not become effective until the full mediation process has been complied with in accordance with the provisions of Section 9.50.080 provided, however, an increase in the amount of the CPI may take effect immediately and only the amount in excess thereof shall be deferred until the completion of the negotiation or mediation process.

Sec. 9.50.100 Severability.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional, such portion shall be deemed a separate and independent provision and such decision shall not affect the validity of the remainder.

Sec. 9.50.110 Enforcement.

- (1) The failure of either the mobilehome park residents or owners to adhere to the procedures established herein shall not constitute a crime, but the City Council may, upon petition of either party and after conducting a public hearing thereon, and making a finding of a violation of the terms of this ordinance, direct the City Attorney to seek judicial enforcement in a court of competent jurisdiction of the mediation procedures contained herein. Such enforcement shall not extend to the failure or refusal of either party to accept the final determination reached by the mediation process.
- (2) An individual resident or two or more residents or a residents' association may at any time bring an action in the State or Federal Courts alleging a violation by the owner, two or more owners, or an owners' association of any legal, equitable or other rights which the resident or residents or their association may have under the law as now enacted or under laws enacted in the future.
- (3) An individual owner or two or more owners or an owners' association may at any time bring an action in the State or Federal Courts alleging a violation by an individual resident or two or more residents or a residents' association of any legal, equitable, or other right which the owner, owners or owners association may have under the law as now enacted or under laws enacted in the future.

SECTION II: This urgency ordinance shall take effect and be in full force and effect from and after the first reading and adoption by a four-fifth's vote of the City Council.

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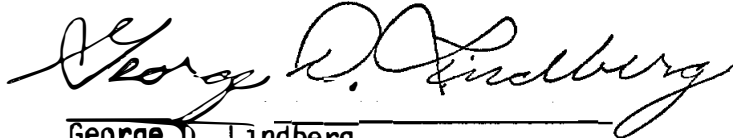
SECTION III: This ordinance shall be deemed to be repealed and be of no further force and effect from and after August 18, 1987.

Presented by

Approved as to form by



Paul Desrochers
Community Development Director



George D. Lindberg
City Attorney

DG:d1
WPC 0035X

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APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF
CHULA VISTA, CALIFORNIA, AT FIRST READING THIS 17th DAY OF August,
1982, by the following vote, to-wit:

AYES: Councilmen Scott, Cox, Malcolm, Moore, McCandliss
NAYES: Councilmen None
ABSTAIN: Councilmen None
ABSENT: Councilmen None



Mayor of the City of Chula Vista

ATTEST Jennie M. Fulasz
City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss.
CITY OF CHULA VISTA)

I, JENNIE M. FULASZ, CMC, CITY CLERK of the City of Chula Vista, California,
DO HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of
ORDINANCE NO. 1997, and that the same has not been amended or repealed.

DATED _____

(seal) _____
City Clerk

ORDINANCE NO. 1997

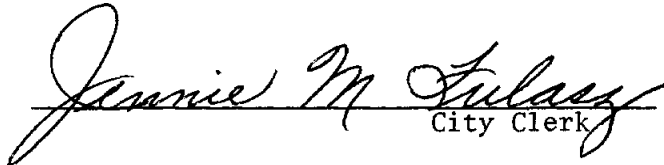
AN URGENCY ORDINANCE OF THE CITY OF CHULA VISTA AMENDING TITLE 9 OF THE CHULA VISTA MUNICIPAL CODE BY ADDING THERETO A NEW CHAPTER 9.50 ENTITLED "MOBILEHOME PARK SPACE RENT MEDIATION" TO CREATE A MECHANISM FOR MEDIATING MOBILEHOME PARK SPACE RENTS

By a unanimous vote on August 17, 1982, the City Council placed the ordinance on first reading and adoption.

The purpose of the ordinance is to establish a policy whereby the City of Chula Vista encourages the practice of productive negotiation and mediation between mobilehome owners and mobilehome park owners by the establishment of procedures to insure a full freedom of association through self-governing committees and the designation of representatives for the purpose of negotiating the terms and conditions of rent and rent increases in mobilehome parks.

The ordinance covers the makeup and membership on the Negotiation Commission; delineates its functions and powers; notes the initiation of Commission Review and hearing process and lists mediation of Commission's decisions. The ordinance further stipulates the deferral of rent increases, the severability and enforcement.

Copies of the ordinance are available at the office of the City Clerk, City Hall, 276 Fourth Avenue, Chula Vista.


City Clerk

Dated: 8/20/82